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09/893,743	06/29/2001	David Israel	2013.0040000	3343

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EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 08/14/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/893,743

Applicant(s)

ISRAEL ET AL.

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 24, 25 and 27-32 is/are allowed.
- 6) ☒ Claim(s) 15, 16, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 17-20, 23 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6-7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Drawings***

1. The drawings are objected to because the following requires descriptive wording (37 CFR 1.83(a)): Figure 2, item 208; Figure 4, one of items 307, one of items 308, one of items 478 and one of items 480; item 302 for each of Figures 6A-6F.
2. Figure 2 is objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "210" has been used to designate both resources and application CPU.
3. Figure 4 is objected to because items 307a and 307b are shown as the same rectangular box. Items 307a and 307b should be shown as separate boxes (specification, para. 66, line 1).
4. Figure 4 is objected to as failing to comply with 37 CFR 1.84(p)(5) because it does not include "434" as mentioned in the description in para. 66.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description (see para. 71): Figure 4, items 446, 448 and 472.
6. Figure 7A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated as noted in the specification at para. 106, line 1. See MPEP § 608.02(g).

A proposed drawing correction, corrected drawings, or amendment to the specification to add missing reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objections to the drawings will not be held in abeyance.

***Claim Objections***

7. Claim 23 is objected to because “switching audio from a second audio source to an egress audio” should be --switching audio from a first audio source to a second audio source on an egress audio--.

8. Claim 26 is objected to because “in payloads” at line 3 should be deleted.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Ramey (US 2002/0075879).

9. Ramey discloses a system (Figure 3) for switching audio provided on an egress audio channel over a network (item 46; para. 39, lines 1-4; para. 57, lines 5-11). The system comprises first and second audio sources (para. 60, lines 8-10) and a network interface controller (Figure 3, item 40). The first audio source and second audio source each generate an audio stream of packets for the egress audio channel (para. 60, lines 6-14), where each packet inherently has a payload carrying audio and a control header information (para. 38, lines 1-7). A packet switched network (Figure 3, item 44; note: item 44 is mislabeled as PSTN -- para. 38, lines 1-7; para. 31,

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lines 6-11; para 33, lines 1-7) inherently includes at least one switch coupled between the audio sources and the network interface controller (note: “noiselessly switching audio” in the preamble has not been given patentable weight because it recites a purpose for the audio switching, i.e., there is no recitation of sequencing or synchronization between the packet streams as in claim 3; see noiseless definition in the specification at para. 41; see MPEP 2111.02).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramey (US 2002/007,5879)

10. Regarding claim 16, Ramey discloses a system for transmitting audio streams from different sources to a destination (para. 60). However, Ramey does not disclose an egress audio

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controller coupled to a second audio source for initiating the generation of the second audio stream. Examiner takes Official Notice that packetized information is typically controlled by a processor or device within or external to a source of packets in order to control the flow of packets to the network to prevent congestion in the network or to control the flow of packets in a connection-oriented data transmission. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a controller initiate a stream of packets at an audio source in the invention of Ramey.

11. Regarding claim 21, Ramey does not disclose explicitly that each of the audio sources internally generates the audio for each audio stream (para. 60, lines 6-10). Examiner takes Official Notice that content for transmission is typically generated or created at a transmission source (such as a live or recorded news event, recorded music or a live radio broadcast).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to generate the audio at an audio transmission source in the invention of Ramey in order to conveniently provide live or recorded audio to subscribers or audiences from the place where the event originates.

12. Regarding claim 22, Ramey does not disclose explicitly that each of the audio sources converts externally generated audio for each audio stream (para. 60, lines 6-10). Examiner takes Official Notice that content for transmission is typically converted from an external source (such by an intermediary gateway or relay device). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to convert received audio for transmission to a destination on a packet network in the invention of Ramey in order to provide audio to

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subscribers or audiences over a distribution medium different from a distribution medium of the source of the audio.

***Allowable Subject Matter***

13. Claims 1-14, 24-25 and 27-32 are allowed.
14. Claims 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
15. Claim 23 and 26 would be allowable if rewritten to overcome the claim objections, set forth in this Office Action.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haberman et al. (US 2003/0045957 and US 2002/0122430) discloses seamless switching between audio and video fragments (Figure 5, para.14 and 16; and, Figure 1, para. 15, respectively).

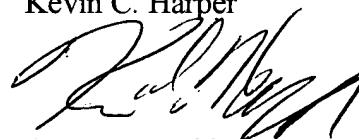
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463. The fax number for Technology Center (TC) 2600 is 703-872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper

A handwritten signature in black ink, appearing to read 'Kevin C. Harper', written over the printed name.

August 11, 2003